



State of New Jersey  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF PHYSICAL THERAPY  
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

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August 13, 1999

By Certified and Regular Mail

Vincente A. Banez, P.T.  
404 Williams Court  
Edgewater, NJ 07020-1629

Re: Vincente A. Banez, P.T.  
Offer of Settlement in Lieu of Filing a Formal Disciplinary Complaint

Dear Mr. Banez:

This letter is to advise you that the New Jersey State Board of Physical Therapy (the Board) has had an opportunity to review information concerning your physical therapy practice at Physical Medicine and Rehab Services of Hudson County.

Specifically, the information reviewed included:

1. Patient records for patients treated at Physical Medicine and Rehab Services.
2. Sworn testimony offered by you at an Investigative Inquiry of the Board on February 9, 1999 as well as the sworn testimony of other physical therapy employees of Physical Medicine and Rehab Services, specifically Julio Gonzalez, P.T.A., Moses Chella, P.T., Sudha Malhotra, P.T.

Upon review of the information available, the Board has preliminarily found that probable cause exists to support a finding that you have violated N.J.S.A. 45:9-37.14 and N.J.A.C. 13:39A-2.1, 3.1, and 3.6(a) and 3.6(b) in that you:

1. Failed to perform a physical therapy evaluation upon patients for whom you provided physical therapy but rather relied solely upon the physician/employer's evaluation of the patient. Patient records contained no evidence of the subjective complaints of the patient, nor objective findings resulting from a physical therapy evaluation, upon which to base the plan of care to be rendered to the patient. The record contained no evidence of a physical therapy plan of care. You failed to document patient progress during the course of physical therapy treatment, nor does the record contain any evidence of reevaluation of the patient to determine the effectiveness of the treatment rendered. One record of 24 treatment sessions contains little indication of the purpose of the treatment rendered, the outcome of the treatment, or the patient's condition at the time of discharge, nor do the records contain a discharge summary.

2. You testified that you had no knowledge of the business practices of Physical Medicine and Rehab Services. The fees charged for treatment rendered at Physical Medicine and Rehab Services are excessive, with one treatment session for the patient G.B. amounting to \$670, a result of a modality based billing method which billed for multiple body parts despite the fact that many of the modalities were performed simultaneously, and unattended by a physical therapist.

At this juncture, the Board has preliminarily concluded that the above violations are sufficient to warrant the initiation of formal disciplinary proceeding against you. Notwithstanding that decision, the Board has determined to offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceeding, should you consent to:

1. Cease and desist from rendering physical therapy treatment without having first performed a physical therapy evaluation to determine the specific physical therapy needs of the patient. Further, you shall develop a plan of care for any patient upon whom you perform a physical therapy evaluation, and you shall, at appropriate times during the course of treatment, evaluate the effectiveness of the care you have rendered and adjust your treatment plan as necessary.
2. You shall familiarize yourself with the business practices of the entity through which you provide physical therapy services, which shall include but is not limited to specific knowledge of the charges generated by the services which you render. In determining the appropriateness of the charges, you shall consider the time and effort required to treat the patient, the novelty and difficulty of the professional treatment, and the skill required to perform the treatment properly.
3. Pay a civil penalty in the amount of \$5,000.000 for violation of N.J.S.A. 45:9-37.11 et seq. and N.J.A.C. 13:39A-2.1, 3.1, and 3.6, with \$1,000.00 to be due and owing upon the execution of this settlement agreement. The remaining \$4,000.00 shall be stayed and shall become due and owing upon the Board entering a finding that you have engaged in physical therapy practice which violates N.J.S.A. 45:9-37.11 et seq., subsequent to the entry of the within Order.

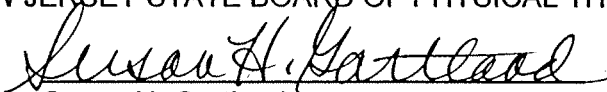
If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter and returning it to the Board office. Upon your signature, this letter will become a matter of public record.

In the event that you are unwilling to settle this matter on the offered terms, the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the office of Administrative Law. You are advised that, in the event that formal charges are filed, the Board may assess civil penalties in an amount greater than those herein offered in settlement should any of the charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Anne W. Maloney, who may be reached at 973 648-4876.

If you elect to settle this matter at this time, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board does not receive a response from you within the fifteen (15) day period, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

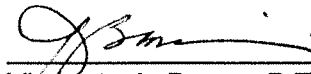
NEW JERSEY STATE BOARD OF PHYSICAL THERAPY

By:



Susan H. Gartland  
Executive Director

ACKNOWLEDGMENT: I, Vincente A. Banez, P.T., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of \$5,000, of which \$1,000 shall be due and owing upon signing of this acknowledgment and \$4,000.00 of which shall be stayed.



Vincente A. Banez, P.T.

Dated: 2-9-00

c: Anne W. Maloney, DAG